

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BERNALDINO PADILLA,
Plaintiff,

v.

ANDREW SAUL,¹ Commissioner of Social
Security,
Defendant.
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ORDER

15 CV 9312 (VB)

By motion dated November 13, 2020, plaintiff moves for an order awarding \$16,173.30 in attorney's fees under 42 U.S.C. § 406(b) for services rendered before this Court. (Doc. #37). The motion is unopposed.

For the following reasons, the motion is GRANTED.

In a retainer agreement dated October 23, 2015, plaintiff agreed that his attorney, Philip H. Seelig, Esq., would be entitled to a contingency fee equal to 25% of all retroactive or past due social security benefits awarded to him and any auxiliary beneficiaries, to be paid from such past due benefits upon an administrative finding favorable to plaintiff following a district court remand. Plaintiff did obtain a favorable administrative finding after remand to the Social Security Administration from this Court. This Court previously approved an award of attorney's fees in the amount of \$7,500.00 plus \$400.00 in costs, under the Equal Access to Justice Act ("EAJA"), paid by the agency.

The requested award of \$16,173.30 is within the statutory maximum of 25% of past due benefits awarded. Moreover, given the amount of time and effort counsel expended in this Court in his successful appeal of an earlier denial of benefits, as well as the fact that the requested fee reflects the contingent nature of the recovery, the Court finds that the fee request is reasonable. See Gisbrecht v. Barnhart, 535 U.S. 789, 804-08 (2002).

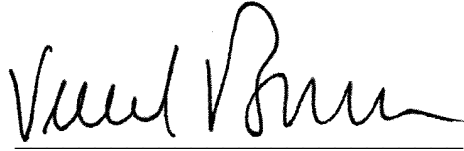
The Court awards attorney's fees in the amount of \$16,173.30 to be paid from funds withheld from the past due benefits awarded to plaintiff by the Social Security Administration. Accordingly, plaintiff's counsel is directed to remit to plaintiff the previous EAJA award of \$7,500.00.

¹ Pursuant to Fed. R. Civ. P. 25(d), Commissioner Saul is substituted for former Acting Commissioner Carolyn W. Colvin as the defendant in this case.

The Clerk is instructed to terminate the motion. (Doc. #37).

Dated: December 28, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge